

SECOND REGULAR SESSION

SENATE BILL NO. 1024

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDDLE.

Read 1st time February 19, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4954S.04I

AN ACT

To repeal sections 104.010, 104.090, 104.395, 104.1003, and 104.1027, RSMo, and to enact in lieu thereof five new sections relating to survivor benefits.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 104.010, 104.090, 104.395, 104.1003, and 104.1027, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 104.010, 104.090, 104.395, 104.1003, and 104.1027, to read as follows:

104.010. 1. The following words and phrases as used in sections 104.010 to 104.800, unless a different meaning is plainly required by the context, shall mean:

(1) "Accumulated contributions", the sum of all deductions for retirement benefit purposes from a member's compensation which shall be credited to the member's individual account and interest allowed thereon;

(2) "Active armed warfare", any declared war, or the Korean or Vietnamese Conflict;

(3) "Actuarial equivalent", a benefit which, when computed upon the basis of [actuarial tables and interest] **specified actuarial assumptions approved by the board**, is equal in value to a certain amount or other benefit;

(4) "Actuarial tables", the actuarial tables approved and in use by a board at any given time;

(5) "Actuary", the actuary who is a member of the American Academy of Actuaries or who is an enrolled actuary under the Employee Retirement Income Security Act of 1974 and who is employed by a board at any given time;

(6) "Annuity", annual payments, made in equal monthly installments, to a retired member from funds provided for in, or authorized by, this chapter;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 (7) "Annuity starting date", the first day of the first month with respect
20 to which an amount is paid as an annuity under sections 104.010 to 104.800, and
21 the terms retirement, time of retirement, and date of retirement shall mean
22 annuity starting date as defined in this subdivision unless the context in which
23 the term is used indicates otherwise;

24 (8) "Average compensation", the average compensation of a member for
25 the thirty-six consecutive months of service prior to retirement when the
26 member's compensation was greatest; or if the member is on workers'
27 compensation leave of absence or a medical leave of absence due to an employee
28 illness, the amount of compensation the member would have received may be
29 used, as reported and verified by the employing department; or if the member had
30 less than thirty-six months of service, the average annual compensation paid to
31 the member during the period up to thirty-six months for which the member
32 received creditable service when the member's compensation was the greatest; or
33 if the member is on military leave, the amount of compensation the member
34 would have received may be used as reported and verified by the employing
35 department or, if such amount is not determinable, the amount of the employee's
36 average rate of compensation during the twelve-month period immediately
37 preceding such period of leave, or if shorter, the period of employment
38 immediately preceding such period of leave. The board of each system may
39 promulgate rules for purposes of calculating average compensation and other
40 retirement provisions to accommodate for any state payroll system in which
41 compensation is received on a monthly, semimonthly, biweekly, or other basis;

42 (9) "Beneficiary", any persons or entities entitled to or nominated by a
43 member or retiree who may be legally entitled to receive benefits pursuant to this
44 chapter;

45 (10) "Biennial assembly", the completion of no less than two years of
46 creditable service or creditable prior service by a member of the general assembly;

47 (11) "Board of trustees", "board", or "trustees", a board of trustees as
48 established for the applicable system pursuant to this chapter;

49 (12) "Chapter", sections 104.010 to 104.800;

50 (13) "Compensation":

51 (a) All salary and wages payable out of any state, federal, trust, or other
52 funds to an employee for personal services performed for a department; but
53 including only amounts for which contributions have been made in accordance
54 with section 104.436, or section 104.070, whichever is applicable, and excluding

55 any nonrecurring single sum payments or amounts paid after the member's
56 termination of employment unless such amounts paid after such termination are
57 a final installment of salary or wages at the same rate as in effect immediately
58 prior to termination of employment in accordance with a state payroll system
59 adopted on or after January 1, 2000, or any other one-time payments made as a
60 result of such payroll system;

61 (b) All salary and wages which would have been payable out of any state,
62 federal, trust or other funds to an employee on workers' compensation leave of
63 absence during the period the employee is receiving a weekly workers'
64 compensation benefit, as reported and verified by the employing department;

65 (c) Effective December 31, 1995, compensation in excess of the limitations
66 set forth in Internal Revenue Code Section 401(a)(17) shall be disregarded. The
67 limitation on compensation for eligible employees shall not be less than the
68 amount which was allowed to be taken into account under the system as in effect
69 on July 1, 1993. For this purpose, an "eligible employee" is an individual who
70 was a member of the system before the first plan year beginning after December
71 31, 1995;

72 (14) "Consumer price index", the Consumer Price Index for All Urban
73 Consumers for the United States, or its successor index, as approved by a board,
74 as such index is defined and officially reported by the United States Department
75 of Labor, or its successor agency;

76 (15) "Creditable prior service", the service of an employee which was
77 either rendered prior to the establishment of a system, or prior to the date the
78 employee last became a member of a system, and which is recognized in
79 determining the member's eligibility and for the amount of the member's benefits
80 under a system;

81 (16) "Creditable service", the sum of membership service and creditable
82 prior service, to the extent such service is standing to a member's credit as
83 provided in this chapter; except that in no case shall more than one day of
84 creditable service or creditable prior service be credited any member for any one
85 calendar day of eligible service credit as provided by law;

86 (17) "Deferred normal annuity", the annuity payable to any former
87 employee who terminated employment as an employee or otherwise withdrew
88 from service with a vested right to a normal annuity, payable at a future date;

89 (18) "Department", any department or agency of the executive, legislative
90 or judicial branch of the state of Missouri receiving state appropriations,

91 including allocated funds from the federal government but not including any body
92 corporate or politic unless its employees are eligible for retirement coverage from
93 a system pursuant to this chapter as otherwise provided by law;

94 (19) "Disability benefits", benefits paid to any employee while totally
95 disabled as provided in this chapter;

96 (20) "Early retirement age", a member's attainment of fifty-five years of
97 age and the completion of ten or more years of creditable service, except for
98 uniformed members of the water patrol;

99 (21) "Employee":

100 (a) Effective August 28, 2007, any elective or appointive officer or person
101 employed by the state who is employed, promoted or transferred by a department
102 into a new or existing position and earns a salary or wage in a position normally
103 requiring the performance by the person of duties during not less than one
104 thousand forty hours per year, including each member of the general assembly
105 but not including any patient or inmate of any state, charitable, penal or
106 correctional institution. However, persons who are members of the public school
107 retirement system and who are employed by a state agency other than an
108 institution of higher learning shall be deemed employees for purposes of
109 participating in all insurance programs administered by a board established
110 pursuant to section 104.450. This definition shall not exclude any employee as
111 defined in this subdivision who is covered only under the federal Old Age and
112 Survivors' Insurance Act, as amended. As used in this chapter, the term
113 "employee" shall include:

114 a. Persons who are currently receiving annuities or other retirement
115 benefits from some other retirement or benefit fund, so long as they are not
116 simultaneously accumulating creditable service in another retirement or benefit
117 system which will be used to determine eligibility for or the amount of a future
118 retirement benefit;

119 b. Persons who have elected to become or who have been made members
120 of a system pursuant to section 104.342;

121 (b) Any person who is not a retiree and has performed services in the
122 employ of the general assembly or either house thereof, or any employee of any
123 member of the general assembly while acting in the person's official capacity as
124 a member, and whose position does not normally require the person to perform
125 duties during at least one thousand forty hours per year, with a month of service
126 being any monthly pay period in which the employee was paid for full-time

127 employment for that monthly period; except that persons described in this
128 paragraph shall not include any such persons who are employed on or after
129 August 28, 2007, and who have not previously been employed in such positions;

130 (c) "Employee" does not include special consultants employed pursuant to
131 section 104.610;

132 (d) The system shall consider a person who is employed in multiple
133 positions simultaneously within a single agency to be working in a single position
134 for purposes of determining whether the person is an employee as defined in this
135 subdivision;

136 (22) "Employer", a department of the state;

137 (23) "Executive director", the executive director employed by a board
138 established pursuant to the provisions of this chapter;

139 (24) "Fiscal year", the period beginning July first in any year and ending
140 June thirtieth the following year;

141 (25) "Full biennial assembly", the period of time beginning on the first day
142 the general assembly convenes for a first regular session until the last day of the
143 following year;

144 (26) "Fund", the benefit fund of a system established pursuant to this
145 chapter;

146 (27) "Interest", interest at such rate as shall be determined and prescribed
147 from time to time by a board;

148 (28) "Member", as used in sections 104.010 to 104.272 or 104.601 to
149 104.800 shall mean an employee, retiree, or former employee entitled to a
150 deferred annuity covered by the Missouri department of transportation and
151 highway patrol employees' retirement system. "Member", as used in this section
152 and sections 104.312 to 104.800, shall mean an employee, retiree, or former
153 employee entitled to deferred annuity covered by the Missouri state employees'
154 retirement system;

155 (29) "Membership service", the service after becoming a member that is
156 recognized in determining a member's eligibility for and the amount of a
157 member's benefits under a system;

158 (30) "Military service", all active service performed in the United States
159 Army, Air Force, Navy, Marine Corps, Coast Guard, and members of the United
160 States Public Health Service or any women's auxiliary thereof; and service in the
161 Army National Guard and Air National Guard when engaged in active duty for
162 training, inactive duty training or full-time National Guard duty, and service by

163 any other category of persons designated by the President in time of war or
164 emergency;

165 (31) "Normal annuity", the annuity provided to a member upon retirement
166 at or after the member's normal retirement age;

167 (32) "Normal retirement age", an employee's attainment of sixty-five years
168 of age and the completion of four years of creditable service or the attainment of
169 age sixty-five years of age and the completion of five years of creditable service
170 by a member who has terminated employment and is entitled to a deferred
171 normal annuity or the member's attainment of age sixty and the completion of
172 fifteen years of creditable service, except that normal retirement age for
173 uniformed members of the highway patrol shall be fifty-five years of age and the
174 completion of four years of creditable service and uniformed employees of the
175 water patrol shall be fifty-five years of age and the completion of four years of
176 creditable service or the attainment of age fifty-five and the completion of five
177 years of creditable service by a member of the water patrol who has terminated
178 employment and is entitled to a deferred normal annuity and members of the
179 general assembly shall be fifty-five years of age and the completion of three full
180 biennial assemblies. Notwithstanding any other provision of law to the contrary,
181 a member of the Missouri department of transportation and highway patrol
182 employees' retirement system or a member of the Missouri state employees'
183 retirement system shall be entitled to retire with a normal annuity and shall be
184 entitled to elect any of the survivor benefit options and shall also be entitled to
185 any other provisions of this chapter that relate to retirement with a normal
186 annuity if the sum of the member's age and creditable service equals eighty years
187 or more and if the member is at least forty-eight years of age;

188 (33) "Payroll deduction", deductions made from an employee's
189 compensation;

190 (34) "Prior service credit", the service of an employee rendered prior to the
191 date the employee became a member which service is recognized in determining
192 the member's eligibility for benefits from a system but not in determining the
193 amount of the member's benefit;

194 (35) "Reduced annuity", an actuarial equivalent of a normal annuity;

195 (36) "Retiree", a member who is not an employee and who is receiving an
196 annuity from a system pursuant to this chapter;

197 (37) "System" or "retirement system", the Missouri department of
198 transportation and highway patrol employees' retirement system, as created by

199 sections 104.010 to 104.270, or sections 104.601 to 104.800, or the Missouri state
200 employees' retirement system as created by sections 104.320 to 104.800;

201 (38) "Uniformed members of the highway patrol", the superintendent,
202 lieutenant colonel, majors, captains, director of radio, lieutenants, sergeants,
203 corporals, and patrolmen of the Missouri state highway patrol who normally
204 appear in uniform;

205 (39) "Uniformed members of the water patrol", employees of the Missouri
206 state water patrol of the department of public safety who are classified as water
207 patrol officers who have taken the oath of office prescribed by the provisions of
208 chapter 306 and who have those peace officer powers given by the provisions of
209 chapter 306;

210 (40) "Vesting service", the sum of a member's prior service credit and
211 creditable service which is recognized in determining the member's eligibility for
212 benefits under the system.

213 2. Benefits paid pursuant to the provisions of this chapter shall not exceed
214 the limitations of Internal Revenue Code Section 415, the provisions of which are
215 hereby incorporated by reference. Notwithstanding any other law to the contrary,
216 the board of trustees may establish a benefit plan under Section 415(m) of the
217 Internal Revenue Code of 1986, as amended. Such plan shall be created solely
218 for the purposes described in Section 415(m)(3)(A) of the Internal Revenue Code
219 of 1986, as amended. The board of trustees may promulgate regulations
220 necessary to implement the provisions of this subsection and to create and
221 administer such benefit plan.

104.090. 1. The normal annuity of a member shall equal one and
2 six-tenths percent of the average compensation of the member multiplied by the
3 number of years of creditable service of such member. In addition, the normal
4 annuity of a uniformed member of the patrol shall be increased by thirty-three
5 and one-third percent.

6 2. In addition, a uniformed member of the highway patrol who is retiring
7 with a normal annuity after attaining normal retirement age shall receive an
8 additional sum of ninety dollars per month as a contribution by the system until
9 such member attains the age of sixty-five years, when such contribution shall
10 cease. To qualify for the contribution provided in this subsection by the system,
11 the retired uniformed member of the highway patrol is made, constituted,
12 appointed and employed by the board as a special consultant on the problems of
13 retirement, aging and other state matters. Such additional contribution shall be

14 reduced each month by such amount earned by the retired uniformed member of
15 the highway patrol in gainful employment. In order to qualify for the additional
16 contribution provided in this subsection, the retired uniformed member of the
17 highway patrol shall have been:

18 (1) Hired by the Missouri state highway patrol prior to January 1, 1995;
19 and

20 (2) Employed by the Missouri state highway patrol or receiving long-term
21 disability or work-related disability benefits on the day before the effective date
22 of the member's retirement.

23 3. In lieu of the annuity payable to the member pursuant to section
24 104.100, a member whose age at retirement is forty-eight or more may elect in the
25 member's application for retirement to receive one of the following:

26 Option 1.

27 An actuarial reduction approved by the board of the member's annuity in
28 reduced monthly payments for life during retirement with the provision that upon
29 the member's death the reduced annuity at date of death shall be continued
30 throughout the life of, and be paid to, the member's spouse; or

31 Option 2.

32 The member's normal annuity in regular monthly payments for life during
33 retirement with the provision that upon the member's death a survivor's benefit
34 equal to one-half the member's normal annuity at date of death shall be paid to
35 the member's spouse in regular monthly payments for life; or

36 Option 3.

37 An actuarial reduction approved by the board of the member's normal
38 annuity in reduced monthly payments for the member's life with the provision
39 that if the member dies prior to the member's having received one hundred
40 twenty monthly payments of the member's reduced annuity, the member's
41 reduced allowance to which the member would have been entitled had the
42 member lived shall be paid for the remainder of the one hundred twenty-month
43 period to such beneficiary as the member shall have nominated by written
44 designation duly executed and filed with the board. If there is no beneficiary
45 surviving the retiree, the reserve for such allowance for the remainder of such one
46 hundred twenty-month period shall be paid to the retiree's estate; or

47 Option 4.

48 An actuarial reduction approved by the board of the member's normal
49 annuity in reduced monthly payments for the member's life with the provision

50 that if the member dies prior to the member having received sixty monthly
51 payments of the member's reduced annuity, the member's reduced allowance to
52 which the member would have been entitled had the member lived shall be paid
53 for the remainder of the sixty-month period to such beneficiary as the member
54 shall have nominated by written designation duly executed and filed with the
55 board. If there is no beneficiary surviving the retiree, the reserve for such
56 allowance for the remainder of such sixty-month period shall be paid to the
57 retiree's estate.

58 4. The election may be made only in the application for retirement, and
59 such application shall be filed at least thirty days but not more than ninety days
60 prior to the date on which the retirement of the member is to be effective,
61 provided that if either the member or the spouse nominated to receive the
62 survivorship payment dies before the effective date of retirement, the election
63 shall not be effective. If after the reduced annuity commences, the spouse
64 predeceases the retired member, the reduced annuity continues to the retired
65 member during the member's lifetime.

66 5. Effective July 1, 2000, a member may make an election under option
67 1 or 2 after the date retirement benefits are initiated if the member makes the
68 election within one year from the date of marriage or July 1, 2000, whichever is
69 later, under any of the following circumstances:

70 (1) The member elected to receive a normal annuity and was not eligible
71 to elect option 1 or 2 on the date retirement benefits were initiated; or

72 (2) The member's annuity reverted to a normal annuity pursuant to
73 subsection **7 of this section or subsection 7 or 8** of section 104.103 and the
74 member remarried; or

75 (3) The member elected option 1 or 2 but the member's spouse at the time
76 of retirement has died and the member has remarried.

77 6. Any person who terminates employment or retires prior to July 1, 2000,
78 shall be made, constituted, appointed and employed by the board as a special
79 consultant on the problems of retirement, aging and other state matters, and for
80 such services shall be eligible to elect to receive the benefits described in
81 subsection 5 of this section.

82 7. For retirement applications filed on or after August 28, 2004, the
83 beneficiary for either option 1 or option 2 of subsection 3 of this section shall be
84 the member's spouse at the time of retirement. If the member's marriage ends
85 after retirement as a result of a dissolution of marriage, such dissolution shall not

86 affect the option election and the former spouse shall continue to be eligible to
87 receive survivor benefits upon death of the member, **except a member may**
88 **cancel his or her election if:**

89 **(1) The dissolution of marriage of the member and former spouse**
90 **occurred on or after January 1, 2021, and the dissolution decree**
91 **provides for sole retention by the member of all rights in the annuity**
92 **and provides that the former spouse shall not be entitled to any**
93 **survivor benefits pursuant to this chapter; or**

94 **(2) The dissolution of marriage of the member and former spouse**
95 **occurred prior to January 1, 2021, and:**

96 **(a) The dissolution decree provided for the sole retention by the**
97 **member of all rights in the annuity pursuant to this chapter, and the**
98 **parties obtained an amended or modified dissolution decree after**
99 **January 1, 2021, providing for immediate removal of the former spouse**
100 **as the beneficiary entitled to survivor benefits to the satisfaction of the**
101 **system; or**

102 **(b) The dissolution decree does not provide for the sole retention**
103 **by the member of all rights in the annuity and the parties obtained an**
104 **amended or modified dissolution decree after January 1, 2021, which**
105 **provides for the sole retention by the member of all rights in the**
106 **annuity and provides that the former spouse shall not be entitled to**
107 **any survivor benefits pursuant to this chapter.**

108 **Upon meeting the requirements of subdivision (1) or (2) of this**
109 **subsection, the monthly benefit payable for the lifetime of the member**
110 **shall be the actuarial equivalent of the annuity payable pursuant to the**
111 **provisions of option 1 or option 2 of subsection 3 of this section, as**
112 **adjusted for early retirement if applicable. In no event shall the**
113 **monthly benefit payable for the lifetime of the member be greater than**
114 **the amount that would have been payable to the member under**
115 **subsection 7 or 8 of section 104.103, whichever is applicable, had the**
116 **former spouse died on the date of the dissolution of marriage. Any**
117 **increase in the annuity amount pursuant to this subsection shall be**
118 **prospective and effective the first of the month following the date of**
119 **receipt by the system of a certified copy of the dissolution decree that**
120 **meets the requirements of this subsection.**

121 **8. Any application for retirement shall only become effective on the first**
122 **day of the month.**

104.395. 1. In lieu of the normal annuity otherwise payable to a member
2 pursuant to sections 104.335, 104.370, 104.371, 104.374, or 104.400, and prior to
3 the last business day of the month before the annuity starting date pursuant to
4 section 104.401, a member shall elect whether or not to have such member's
5 normal annuity reduced as provided by the options set forth in this section;
6 provided that if such election has not been made within such time, annuity
7 payments due beginning on and after such annuity starting date shall be made
8 the month following the receipt by the system of such election, and further
9 provided, that if such person dies after such annuity starting date but before
10 making such election, no benefits shall be paid except as required pursuant to
11 section 104.420:

12 **Option 1.**

13 An actuarial reduction approved by the board of the member's annuity in
14 reduced monthly payments for life during retirement with the provision that upon
15 the member's death the reduced annuity at the date of the member's death shall
16 be continued throughout the life of, and be paid to, the member's spouse to whom
17 the member was married at the date of retirement and who was nominated by the
18 member to receive such payments in the member's application for retirement or
19 as otherwise provided pursuant to subsection 5 of this section. Such annuity
20 shall be reduced in the same manner as an annuity under option 2 as in effect
21 immediately prior to August 28, 1997. The surviving spouse shall designate a
22 beneficiary to receive any final monthly payment due after the death of the
23 surviving spouse; or

24 **Option 2.**

25 The member's normal annuity in regular monthly payments for life during
26 the member's retirement with the provision that upon the member's death a
27 survivor's benefit equal to one-half the member's annuity at the date of the
28 member's death shall be paid to the member's spouse to whom the member was
29 married at the date of retirement and who was nominated by the member to
30 receive such payments in the member's application for retirement or as otherwise
31 provided pursuant to subsection 5 of this section, in regular monthly payments
32 for life. The surviving spouse shall designate a beneficiary to receive any final
33 monthly payment due after the death of the surviving spouse; or

34 **Option 3.**

35 An actuarial reduction approved by the board of the member's normal
36 annuity in reduced monthly payments for the member's life with the provision

37 that if the member dies prior to the member having received one hundred twenty
38 monthly payments of the member's reduced annuity, the member's reduced
39 annuity to which the member would have been entitled had the member lived
40 shall be paid for the remainder of the one hundred twenty months' period to such
41 beneficiary as the member shall have nominated by written designation duly
42 executed and filed with the board. If there is no such beneficiary surviving the
43 retirant, the reserve for such annuity for the remainder of such one hundred
44 twenty months' period shall be paid as provided under subsection 3 of section
45 104.620. If such beneficiary dies after the member's date of death but before
46 having received the remainder of the one hundred twenty monthly payments of
47 the retiree's reduced annuity, the reserve for such annuity for the remainder of
48 such one hundred twenty-month period shall be paid as provided under
49 subsection 3 of section 104.620; or

50 Option 4.

51 An actuarial reduction approved by the board of the member's normal
52 annuity in reduced monthly payments for the member's life with the provision
53 that if the member dies prior to the member having received sixty monthly
54 payments of the member's reduced annuity, the member's reduced annuity to
55 which the member would have been entitled had the member lived shall be paid
56 for the remainder of the sixty months' period to such beneficiary as the member
57 shall have nominated by written designation duly executed and filed with the
58 board. If there be no such beneficiary surviving the retirant, the reserve for such
59 annuity for the remainder of such sixty months' period shall be paid as provided
60 under subsection 3 of section 104.620. If such beneficiary dies after the member's
61 date of death but before having received the remainder of the sixty monthly
62 payments of the retiree's reduced annuity, the reserve for such annuity for the
63 remainder of the sixty-month period shall be paid as provided under subsection
64 3 of section 104.620.

65 2. Effective July 1, 2000, if a member is married as of the annuity starting
66 date to a person who has been the member's spouse, the member's annuity shall
67 be paid pursuant to the provisions of either option 1 or option 2 as set forth in
68 subsection 1 of this section, at the member's choice, with the spouse as the
69 member's designated beneficiary unless the spouse consents in writing to the
70 member electing another available form of payment.

71 3. For members who retire on or after August 28, 1995, in the event such
72 member elected a joint and survivor option pursuant to the provisions of this

73 section and the member's eligible spouse or eligible former spouse precedes the
74 member in death, the member's annuity shall revert effective the first of the
75 month following the death of the spouse or eligible former spouse regardless of
76 when the board receives the member's written application for the benefit provided
77 in this subsection, to an amount equal to the member's normal annuity, as
78 adjusted for early retirement if applicable; such benefit shall include any
79 increases the member would have received since the date of retirement had the
80 member elected a normal annuity. If a member dies prior to notifying the system
81 of the spouse's death, the benefit will not revert to a normal annuity and no
82 retroactive payments shall be made.

83 4. Effective on or after August 28, 1995, any retired member who had
84 elected a joint and survivor option and whose spouse or eligible former spouse
85 precedes or preceded the member in death shall upon application to the board be
86 made, constituted, appointed and employed by the board as a special consultant
87 on the problems of retirement, aging and other state matters. As a special
88 consultant pursuant to the provisions of this section, the member's reduced
89 annuity shall revert to a normal annuity as adjusted for early retirement, if
90 applicable, effective the first of the month following the death of the spouse or
91 eligible former spouse or August 28, 1995, whichever is later, if the member
92 cancels the member's original joint and survivor election; such annuity shall
93 include any increases the retired member would have received since the date of
94 retirement had the member elected a normal annuity.

95 5. Effective July 1, 2000, a member may make an election under option
96 1 or 2 after the date retirement benefits are initiated if the member makes such
97 election within one year from the date of marriage or July 1, 2000, whichever is
98 later, under any of the following circumstances:

99 (1) The member elected to receive a normal annuity and was not eligible
100 to elect option 1 or 2 on the date retirement benefits were initiated; or

101 (2) The member's annuity reverted to a normal annuity pursuant to
102 subsection 3 [or], 4, or 9 of this section and the member remarried.

103 6. Any person who terminates employment or retires prior to July 1, 2000,
104 shall be made, constituted, appointed and employed by the board as a special
105 consultant on the problems of retirement, aging and other state matters, and for
106 such services shall be eligible to elect to receive the benefits described in
107 subsection 5 of this section.

108 7. Effective September 1, 2001, the retirement application of any member

109 who fails to make an election pursuant to subsection 1 of this section within
110 ninety days of the annuity starting date contained in such retirement application
111 shall be nullified. Any member whose retirement application is nullified shall not
112 receive retirement benefits until the member files a new application for
113 retirement pursuant to section 104.401 and makes the election pursuant to
114 subsection 1 of this section. In no event shall any retroactive retirement benefits
115 be paid.

116 8. A member may change a member's election made under this section at
117 any time prior to the system mailing or electronically transferring the first
118 annuity payment to such member.

119 **9. If a member designates a spouse as a beneficiary pursuant to**
120 **option 1 or option 2 of subsection 1 of this section and subsequently**
121 **that marriage ends as a result of a dissolution of marriage, such**
122 **dissolution shall not affect the option election pursuant to this section**
123 **and the former spouse shall continue to be eligible to receive survivor**
124 **benefits upon the death of the member, except a member may cancel his**
125 **or her election if:**

126 **(1) The dissolution of marriage of the member and former spouse**
127 **occurred on or after January 1, 2021, and the dissolution decree**
128 **provides for sole retention by the member of all rights in the annuity**
129 **and provides that the former spouse shall not be entitled to any**
130 **survivor benefits pursuant to this chapter; or**

131 **(2) The dissolution of marriage of the member and former spouse**
132 **occurred prior to January 1, 2021, and:**

133 **(a) The dissolution decree provided for the sole retention by the**
134 **member of all rights in the annuity pursuant to this chapter and the**
135 **parties obtained an amended or modified dissolution decree after**
136 **January 1, 2021, providing for immediate removal of the former spouse**
137 **as the beneficiary entitled to survivor benefits to the satisfaction of the**
138 **system; or**

139 **(b) The dissolution decree does not provide for the sole retention**
140 **by the member of all rights in the annuity and the parties obtain an**
141 **amended or modified dissolution decree after January 1, 2021, which**
142 **provides for the sole retention by the member of all rights in the**
143 **annuity and provides that the former spouse shall not be entitled to**
144 **any survivor benefits pursuant to this chapter.**

145 **Upon meeting the requirements of subdivision (1) or (2) of this**

146 subsection, the monthly benefit payable for the lifetime of the member
147 shall be the actuarial equivalent of the annuity payable pursuant to the
148 provisions of option 1 or option 2 of subsection 1 of this section, as
149 adjusted for early retirement if applicable. In no event shall the
150 monthly benefit payable for the lifetime of the member be greater than
151 the amount that would have been payable to the member under
152 subsection 3 or 4 of this section, whichever is applicable, had the
153 former spouse died on the date of the dissolution of marriage. Any
154 increase in the annuity amount shall be prospective and effective the
155 first of the month following the date of receipt by the system of a
156 certified copy of the dissolution decree that meets the requirements of
157 this subsection.

104.1003. 1. Unless a different meaning is plainly required by the
2 context, the following words and phrases as used in sections 104.1003 to 104.1093
3 shall mean:

4 (1) "Act", the year 2000 plan created by sections 104.1003 to 104.1093;
5 (2) "Actuarial equivalent", a benefit which, when computed upon
6 the basis of specified actuarial assumptions approved by the board, is
7 equal in value to a certain amount or other benefit;

8 (3) "Actuary", an actuary who is experienced in retirement plan financing
9 and who is either a member of the American Academy of Actuaries or an enrolled
10 actuary under the Employee Retirement Income Security Act of 1974;

11 [(3)] (4) "Annuity", annual benefit amounts, paid in equal monthly
12 installments, from funds provided for in, or authorized by, sections 104.1003 to
13 104.1093;

14 [(4)] (5) "Annuity starting date" means the first day of the first month
15 with respect to which an amount is paid as an annuity pursuant to sections
16 104.1003 to 104.1093;

17 [(5)] (6) "Beneficiary", any persons or entities entitled to receive an
18 annuity or other benefit pursuant to sections 104.1003 to 104.1093 based upon
19 the employment record of another person;

20 [(6)] (7) "Board of trustees", "board", or "trustees", a governing body or
21 bodies established for the year 2000 plan pursuant to sections 104.1003 to
22 104.1093;

23 [(7)] (8) "Closed plan", a benefit plan created pursuant to this chapter
24 and administered by a system prior to July 1, 2000. No person first employed on

25 or after July 1, 2000, shall become a member of the closed plan, but the closed
26 plan shall continue to function for the benefit of persons covered by and
27 remaining in the closed plan and their beneficiaries;

28 [(8)] (9) "Consumer price index", the Consumer Price Index for All Urban
29 Consumers for the United States, or its successor index, as approved by the
30 board, as such index is defined and officially reported by the United States
31 Department of Labor, or its successor agency;

32 [(9)] (10) "Credited service", the total credited service to a member's
33 credit as provided in sections 104.1003 to 104.1093; except that in no case shall
34 more than one day of credited service be credited to any member or vested former
35 member for any one calendar day of eligible credit as provided by law;

36 [(10)] (11) "Department", any department or agency of the executive,
37 legislative, or judicial branch of the state of Missouri receiving state
38 appropriations, including allocated funds from the federal government but not
39 including any body corporate or politic unless its employees are eligible for
40 retirement coverage from a system pursuant to this chapter as otherwise provided
41 by law;

42 [(11)] (12) "Early retirement eligibility", a member's attainment of
43 fifty-seven years of age and the completion of at least five years of credited
44 service;

45 [(12)] (13) "Effective date", July 1, 2000;

46 [(13)] (14) "Employee" shall be any person who is employed by a
47 department and is paid a salary or wage by a department in a position normally
48 requiring the performance of duties of not less than one thousand forty hours per
49 year, provided:

50 (a) The term "employee" shall not include any patient or inmate of any
51 state, charitable, penal or correctional institution, or any person who is employed
52 by a department in a position that is covered by a state-sponsored defined benefit
53 retirement plan not created by this chapter;

54 (b) The term "employee" shall be modified as provided by other provisions
55 of sections 104.1003 to 104.1093;

56 (c) The system shall consider a person who is employed in multiple
57 positions simultaneously within a single agency to be working in a single position
58 for purposes of determining whether the person is an employee as defined in this
59 subdivision;

60 (d) Beginning September 1, 2001, the term "year" as used in this

61 subdivision shall mean the twelve-month period beginning on the first day of
62 employment;

63 (e) The term "employee" shall include any person as defined under
64 paragraph (b) of subdivision (21) of subsection 1 of section 104.010 who is first
65 employed on or after July 1, 2000, but prior to August 28, 2007;

66 [(14)] (15) "Employer", a department;

67 [(15)] (16) "Executive director", the executive director employed by a
68 board established pursuant to the provisions of sections 104.1003 to 104.1093;

69 [(16)] (17) "Final average pay", the average pay of a member for the
70 thirty-six full consecutive months of service before termination of employment
71 when the member's pay was greatest; or if the member was on workers'
72 compensation leave of absence or a medical leave of absence due to an employee
73 illness, the amount of pay the member would have received but for such leave of
74 absence as reported and verified by the employing department; or if the member
75 was employed for less than thirty-six months, the average monthly pay of a
76 member during the period for which the member was employed. The board of
77 each system may promulgate rules for purposes of calculating final average pay
78 and other retirement provisions to accommodate for any state payroll system in
79 which pay is received on a monthly, semimonthly, biweekly, or other basis;

80 [(17)] (18) "Fund", a fund of the year 2000 plan established pursuant to
81 sections 104.1003 to 104.1093;

82 [(18)] (19) "Investment return", or "interest", rates as shall be
83 determined and prescribed from time to time by a board;

84 [(19)] (20) "Member", a person who is included in the membership of the
85 system, as set forth in section 104.1009;

86 [(20)] (21) "Normal retirement eligibility", a member's attainment of at
87 least sixty-two years of age and the completion of at least five or more years of
88 credited service or, the attainment of at least forty-eight years of age with a total
89 of years of age and years of credited service which is at least eighty or, in the case
90 of a member of the highway patrol who shall be subject to the mandatory
91 retirement provisions of section 104.080, the mandatory retirement age and
92 completion of five years of credited service or, the attainment of at least
93 forty-eight years of age with a total of years of age and years of credited service
94 which is at least eighty;

95 [(21)] (22) "Pay" shall include:

96 (a) All salary and wages payable to an employee for personal services

97 performed for a department; but excluding:

98 a. Any amounts paid after an employee's employment is terminated,
99 unless the payment is made as a final installment of salary or wages at the same
100 rate as in effect immediately prior to termination of employment in accordance
101 with a state payroll system adopted on or after January 1, 2000;

102 b. Any amounts paid upon termination of employment for unused annual
103 leave or unused sick leave;

104 c. Pay in excess of the limitations set forth in Section 401(a)(17) of the
105 Internal Revenue Code of 1986 as amended and other applicable federal laws or
106 regulations;

107 d. Any nonrecurring single sum payments; and

108 e. Any amounts for which contributions have not been made in accordance
109 with section 104.1066;

110 (b) All salary and wages which would have been payable to an employee
111 on workers' compensation leave of absence during the period the employee is
112 receiving a weekly workers' compensation benefit, as reported and verified by the
113 employing department;

114 (c) All salary and wages which would have been payable to an employee
115 on a medical leave due to employee illness, as reported and verified by the
116 employing department;

117 (d) For purposes of members of the general assembly, pay shall be the
118 annual salary provided to each senator and representative pursuant to section
119 21.140, plus any salary adjustment pursuant to section 21.140;

120 [(22)] **(23)** "Retiree", a person receiving an annuity from the year 2000
121 plan based upon the person's employment record;

122 [(23)] **(24)** "State", the state of Missouri;

123 [(24)] **(25)** "System" or "retirement system", the Missouri state
124 employees' retirement system or the Missouri department of transportation and
125 highway patrol employees' retirement system, as the case may be;

126 [(25)] **(26)** "Vested former member", a person entitled to receive a
127 deferred annuity pursuant to section 104.1036;

128 [(26)] **(27)** "Year 2000 plan", the benefit plan created by sections
129 104.1003 to 104.1093.

130 2. Benefits paid under the provisions of this chapter shall not exceed the
131 limitations of Internal Revenue Code Section 415, the provisions of which are
132 hereby incorporated by reference. Notwithstanding any other law to the contrary,

133 the board of trustees may establish a benefit plan under Section 415(m) of the
134 Internal Revenue Code of 1986, as amended. Such plan shall be created solely
135 for the purposes described in Section 415(m)(3)(A) of the Internal Revenue Code
136 of 1986, as amended. The board of trustees may promulgate regulations
137 necessary to implement the provisions of this subsection and to create and
138 administer such benefit plan.

104.1027. 1. Prior to the last business day of the month before the
2 annuity starting date, a member or a vested former member shall elect whether
3 or not to have such member's or such vested former member's life annuity
4 reduced, but not any temporary annuity which may be payable, and designate a
5 beneficiary, as provided by the options set forth in this section; provided that if
6 such election has not been made within such time, annuity payments due
7 beginning on and after the month of the annuity starting date shall be made the
8 month following the receipt by the appropriate system of such election and any
9 other information required by the year 2000 plan created by sections 104.1003 to
10 104.1093, and further provided, that if such person dies after the annuity starting
11 date but before making such election and providing such other information, no
12 benefits shall be paid except as required pursuant to section 104.1030:

13 Option 1.

14 A retiree's life annuity shall be reduced to a certain percent of the annuity
15 otherwise payable. Such percent shall be ninety percent adjusted as follows: if
16 the retiree's age on the annuity starting date is younger than sixty-two years, an
17 increase of three-tenths of one percent for each year the retiree's age is younger
18 than age sixty-two years; and if the beneficiary's age is younger than the retiree's
19 age on the annuity starting date, a decrease of three-tenths of one percent for
20 each year of age difference; and if the retiree's age is younger than the
21 beneficiary's age on the annuity starting date, an increase of three-tenths of one
22 percent for each year of age difference; provided, after all adjustments the option
23 1 percent cannot exceed ninety-five percent. Upon the retiree's death, fifty
24 percent of the retiree's reduced annuity shall be paid to such beneficiary who was
25 the retiree's spouse on the annuity starting date or as otherwise provided by
26 subsection 5 of this section.

27 Option 2.

28 A retiree's life annuity shall be reduced to a certain percent of the annuity
29 otherwise payable. Such percent shall be eighty-three percent adjusted as
30 follows: if the retiree's age on the annuity starting date is younger than sixty-two

31 years, an increase of four-tenths of one percent for each year the retiree's age is
32 younger than sixty-two years; and if the beneficiary's age is younger than the
33 retiree's age on the annuity starting date, a decrease of five-tenths of one percent
34 for each year of age difference; and if the retiree's age is younger than the
35 beneficiary's age on the annuity starting date, an increase of five-tenths of one
36 percent for each year of age difference; provided, after all adjustments the option
37 2 percent cannot exceed ninety percent. Upon the retiree's death one hundred
38 percent of the retiree's reduced annuity shall be paid to such beneficiary who was
39 the retiree's spouse on the annuity starting date or as otherwise provided by
40 subsection 5 of this section.

41 **Option 3.**

42 A retiree's life annuity shall be reduced to ninety-five percent of the
43 annuity otherwise payable. If the retiree dies before having received one hundred
44 twenty monthly payments, the reduced annuity shall be continued for the
45 remainder of the one hundred twenty-month period to the retiree's designated
46 beneficiary provided that if there is no beneficiary surviving the retiree, the
47 present value of the remaining annuity payments shall be paid as provided under
48 subsection 3 of section 104.620. If the beneficiary survives the retiree but dies
49 before receiving the remainder of such one hundred twenty monthly payments,
50 the present value of the remaining annuity payments shall be paid as provided
51 under subsection 3 of section 104.620.

52 **Option 4.**

53 A retiree's life annuity shall be reduced to ninety percent of the annuity
54 otherwise payable. If the retiree dies before having received one hundred eighty
55 monthly payments, the reduced annuity shall be continued for the remainder of
56 the one hundred eighty-month period to the retiree's designated beneficiary
57 provided that if there is no beneficiary surviving the retiree, the present value of
58 the remaining annuity payments shall be paid as provided under subsection 3 of
59 section 104.620. If the beneficiary survives the retiree but dies before receiving
60 the remainder of such one hundred eighty monthly payments, the present value
61 of the remaining annuity payments shall be paid as provided under subsection
62 3 of section 104.620.

63 2. If a member is married as of the annuity starting date, the member's
64 annuity shall be paid under the provisions of either option 1 or option 2 as set
65 forth in subsection 1 of this section, at the member's choice, with the spouse as
66 the member's designated beneficiary unless the spouse consents in writing to the

67 member electing another available form of payment.

68 3. If a member has elected at the annuity starting date option 1 or 2
69 pursuant to this section and if the member's spouse or eligible former spouse dies
70 after the annuity starting date but before the member dies, then the member may
71 cancel the member's election and return to the life annuity form of payment and
72 annuity amount, effective the first of the month following the date of such
73 spouse's or eligible former spouse's death. If a member dies prior to notifying the
74 system of the spouse's death, the benefit will not revert to a life annuity and no
75 retroactive payments shall be made.

76 4. If a member designates a spouse as a beneficiary pursuant to **option**
77 **1 or option 2 of subsection 1 of** this section and subsequently that marriage
78 ends as a result of a dissolution of marriage, such dissolution shall not affect the
79 option election pursuant to this section and the former spouse shall continue to
80 be eligible to receive survivor benefits upon the death of the member, **except a**
81 **member may cancel his or her election if:**

82 **(1) The dissolution of marriage of the member and former spouse**
83 **occurred on or after January 1, 2021, and the dissolution decree**
84 **provides for sole retention by the member of all rights in the annuity**
85 **and provides that the former spouse shall not be entitled to any**
86 **survivor benefits pursuant to this chapter; or**

87 **(2) The dissolution of marriage of the member and former spouse**
88 **occurred prior to January 1, 2021, and:**

89 **(a) The dissolution decree provided for the sole retention by the**
90 **member of all rights in the annuity pursuant to this chapter, and the**
91 **parties obtained an amended or modified dissolution decree after**
92 **January 1, 2021, providing for immediate removal of the former spouse**
93 **as the beneficiary entitled to survivor benefits to the satisfaction of the**
94 **system; or**

95 **(b) The dissolution decree does not provide for the sole retention**
96 **by the member of all rights in the annuity and the parties obtained an**
97 **amended or modified dissolution decree after January 1, 2021, which**
98 **provides for the sole retention by the member of all rights in the**
99 **annuity and provides that the former spouse shall not be entitled to**
100 **any survivor benefits pursuant to this chapter.**

101 **Upon meeting the requirements of subdivision (1) or (2) of this**
102 **subsection, the monthly benefit payable for the lifetime of the member**

103 shall be the actuarial equivalent of the annuity payable pursuant to the
104 provisions of option 1 or option 2 of subsection 1 of this section, as
105 adjusted for early retirement if applicable. In no event shall the
106 monthly benefit payable for the lifetime of the member be greater than
107 the amount that would have been payable to the member under
108 subsection 3 of this section, whichever is applicable, had the former
109 spouse died on the date of the dissolution of marriage. Any increase in
110 the annuity amount pursuant to this subsection shall be prospective
111 and effective the first of the month following the date of receipt by the
112 system of a certified copy of the dissolution decree that meets the
113 requirements of this subsection.

114 5. Effective July 1, 2000, a member may make an election under option
115 1 or 2 after the annuity starting date as described in this section if the member
116 makes such election within one year from the date of marriage or July 1, 2000,
117 whichever is later, pursuant to any of the following circumstances:

118 (1) The member elected to receive a life annuity and was not eligible to
119 elect option 1 or 2 on the annuity starting date; or

120 (2) The member's annuity reverted to a normal or early retirement
121 annuity pursuant to subsection 3 or 4 of this section, and the member remarried.

122 6. Effective September 1, 2001, the retirement application of any member
123 who fails to make an election pursuant to subsection 1 of this section within
124 ninety days of the annuity starting date contained in such retirement application
125 shall be nullified. Any member whose retirement application is nullified shall not
126 receive retirement benefits until the member files a new application for
127 retirement pursuant to section 104.1024 and makes the election pursuant to
128 subsection 1 of this section. In no event shall any retroactive retirement benefits
129 be paid.

130 7. A member may change a member's election made under this section at
131 any time prior to the system mailing or electronically transferring the first
132 annuity payment to such member.

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